

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FREDRICK LEE CHRISTOPHE,

Plaintiff,

v.

T. NUNN, City of Auburn Police Officer,

Defendant.

Case No. C19-519-BJR-MLP

ORDER DENYING PLAINTIFF'S
REQUESTS FOR EXTENSION OF
TIME AND TO RECALL PRIOR
REPORT AND RECOMMENDATION

This is a civil rights action proceeding under 42 U.S.C. § 1983. This matter comes before the Court at the present time on Plaintiff's request for an extension of time (dkt. # 50), and his request to recall the Report and Recommendation issued by the undersigned on July 8, 2019 (dkt. # 52). Plaintiff indicates in his request for an extension of time that he requires additional time to collect evidence to support his claims because he was diagnosed with COVID-19 in August and is still experiencing side effects, and because he has been "ensnarled in the penal system" and therefore unable to obtain necessary records. (Dkt. # 50.) Defendant opposes this request. (Dkt. # 51.)

As Defendant correctly notes in his response to Plaintiff's request for additional time, Plaintiff's COVID-19 diagnosis came three months after the discovery deadline had passed and

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1 well after Defendant's summary judgment motion was noted for consideration. In addition,
2 Plaintiff has previously requested, and been granted, additional time to obtain documents
3 necessary to prove his claim (*see* dkt. ## 30, 32, 33), and he has apparently been unable to do so.
4 The opportunity for Plaintiff to collect and present evidence in this case has long passed. The
5 Court, in conjunction with this Order, has issued a Report and Recommendation recommending
6 that Defendant's pending summary judgment motion be granted. An additional extension at this
7 juncture is not warranted.

8 In his request to recall this Court's prior Report and Recommendation, Plaintiff indicates
9 a desire to file a second amended complaint. (Dkt. # 52.) The Report and Recommendation at
10 issue recommended dismissal of a number of Defendants against whom Plaintiff had failed to
11 adequately state any viable claim for relief, leaving Auburn Police Officer Timothy Nunn as the
12 lone Defendant in this action. (Dkt. # 9) That Report and Recommendation was adopted by the
13 Honorable Barbara J. Rothstein, United States District Judge, on September 27, 2019. (Dkt. #
14 14.) The Order issued by Judge Rothstein specifically rejected a request by Plaintiff for an
15 extension of time to file a second amended complaint which Plaintiff had filed in lieu of
16 objections to the Report and Recommendation. (*See id.*) Not only does this Court lack the
17 authority to recall a Report and Recommendation that has already been adopted by a District
18 Judge, Judge Rothstein rejected Plaintiff's efforts to amend over a year ago. The instant request
19 is redundant and does not warrant further consideration.

20 Based on the foregoing, this Court hereby ORDERS as follows:

21 (1) Plaintiff's request for an extension of time (dkt. # 50), and his request to recall the
22 Report and Recommendation (dkt. # 52) are DENIED.

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1 (2) The Clerk shall provide copies of this Order to Plaintiff, to counsel for Defendant,
2 and to the Honorable Barbara J. Rothstein.

3 DATED this 9th day of November, 2020.

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6 MICHELLE L. PETERSON
7 United States Magistrate Judge
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